**THE HON'BLE SRI JUSTICE N.V. RAMANA**

**W.P. No. 24685 of 2006**

**O r d e r**:

Assailing the award dated 24.04.2006, passed by the Labour Court, Hyderabad, in I.D. No. 21 of 2004, and the consequential notification issued by the Government in G.O. Rt. No. 1363, dated 15.06.2006, the petitioner filed the present writ petition.

The petitioner is working as Conductor with the 1st respondent-APSRTC. On the allegation that he failed to collect fare and issue tickets to two passengers and closed the ticket tray of all the denominations, and thereby violated the rule of "issue and start", a charge sheet was issued. The petitioner submitted his explanation. However, the 1st respondent, namely the Depot Manager, imposed punishment of deferment of increments for a period of two years with cumulative effect. Assailing the said order, the petitioner preferred appeal before the Divisional Manager, who reduced the punishment imposed by the 1st respondent to that of stoppage of one increment with cumulative effect. Aggrieved thereby, the petitioner sought conciliation, and the Government referred the following issue for reference to the Labour Court:

> Whether the action of the Divisional Manager, Nizamabad, in imposing the punishment of deferment of annual increment for a period of one year with cumulative effect vide proceedings No.E3/20(113)/92DVM::NZD dt. 17.4.1993 against Sri. Ch.S. Siddi Ramulu, Conductor, E.No.301836 is justified?
>
> If not, to what relief the workman is entitled?

The Labour Court registered the above reference as I.D. No.21 of 2004, and by reason of the award impugned in the writ petition, held that the Divisional Manager, was justified in imposing punishment of deferment of annual increment for a period of one year with cumulative

effect.

The learned counsel for the petitioner submits that the Labour Court without considering the submission of the petitioner, upheld the order of the Divisional Manager. He submitted that no opportunity whatsoever was given to the petitioner to file documents in support of his case, and on the other hand, treating the documents produced by the respondents, to which the petitioner did not even give consent, as valid evidence, proceeded to adjudicate the reference, which is illegal and arbitrary. He submitted that even though there is no charge of misappropriation alleged against the petitioner, yet the Labour Court had recorded finding as if the petitioner indulged in misappropriation. He submitted that given the fact that the charge leveled against the petitioner is that he failed to collect fare and issue ticket, and thereby violated the rule of "issue and start", the Labour Court ought to have held that the punishment imposed by the Divisional Manager, imposing punishment of deferment of annual increment with cumulative effect.

Per contra, the learned Standing Counsel for the 1st respondent-APSRTC submitted that the given the fact that the petitioner violated the rule of "issue and start", the 1st respondent imposed the punishment of stoppage of two annual increments with cumulative effect, but the Divisional Manager, has taken a lenient view and reduced the punishment to that of stoppage of one increment with cumulative effect, and since the punishment imposed against the petitioner was found to be in proportion to the misconduct alleged, the Labour Court, held that the Divisional Manager, was justified in imposing the punishment of stoppage of annual increment with cumulative effect, and no interference is called for therewith.

Heard the learned counsel for the petitioner and the learned

Standing Counsel for the 1st respondent-APSRTC.

There is no doubt that there is no charge of misappropriation of any amounts of the corporation, alleged against the petitioner, but the fact remains, he was charged on three counts, namely that he failed to observe the rule "issue and start", failed to collect fare and issue tickets to two passengers alighting without tickets, and closed the ticket tray numbers of all tickets without completing the issue of tickets. The petitioner has himself admitted that he had failed to issue tickets to two passengers, and though he sought to justify the non-issuance of tickets under the circumstances explained in his reply to the charge memo, the respondents did not agree with the same. Though the petitioner contends that the passengers were fined for not taking the tickets, but that by itself does not mitigate the charge leveled against the petitioner. The petitioner who is vested with the responsibility of collecting fare and issuing tickets to the passengers, is bound to discharge that duty perfectly. If there were more passengers in the bus, it was his duty to first issue the tickets and then start the bus. At any rate, given the charges leveled against the petitioner, which stood proved on the admission of the petitioner himself, though the 1st respondent imposed the punishment of stoppage of two annual increments with cumulative effect, but the Divisional Manager, in appeal has taken a lenient view and modified the punishment to that of stoppage of annual increment with cumulative effect, and the said punishment cannot be said to be not disproportionate to the charges leveled against him, and therefore, no exception can be taken to the award passed by the Labour Court upholding the order of the Divisional Manager, imposing such a punishment, in the reference made to it by the Government on the request of the petitioner.

The writ petition is devoid of merit, and the same is accordingly

dismissed. No costs.

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**N.V. RAMANA, J.**

**Dated: 14th December, 2006.**
**KSR**